

STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

WATER AND WASTEWATER

IN THE MATTER OF THE PETITION OF)	ORDER ADOPTING INITIAL
ELIZABETHTOWN WATER COMPANY)	DECISION/SETTLEMENT
FOR APPROVAL OF AN INCREASE IN)	
RATES FOR SERVICE)	BPU DOCKET NO. WR01040205
	OAL DOCKET NO. PUC 3427-01

(SERVICE LIST ATTACHED)

BY THE BOARD:

On April 2, 2001, pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:1-5.12, Elizabethtown Water Company (E'town or Company), a public utility of the State of New Jersey, filed a petition with the Board of Public Utilities (Board) seeking approval of an increase in rates for water service.

The Company provides water service to approximately 193,000 customers in certain municipalities in the Counties of Union, Middlesex, Somerset, Mercer, Hunterdon and Morris in the State of New Jersey. Petitioner also provides water service to water systems for resale: New Jersey-American Water Company; Edison Township; City of Elizabeth; Franklin Township; Lawrenceville Water Company; Borough of Manville; Middlesex Water Company; Monroe Township Municipal Utilities Authority; the Township of South Brunswick; and the Township of Westfield. The Company's rate request would have resulted in an increase in total Company revenues of \$23,799,333 or 18% over annual pro forma present revenues for the period ending September 30, 2001.

The rate increase requested by this filing was capped pursuant to the terms of an earlier settlement adopted by the Board in I/M/O the Joint Petition of E'Town Corporation and Certain Subsidiaries of E'Town and Thames Water Holdings Incorporated, for Approval of a Change in Control of New Jersey Public Utilities Controlled and Owned by E'town Corporation, (Docket No. WM99120923, October 10, 2000) (merger settlement). In the merger settlement the Company agreed that it would not file for an increase in rates in excess of 18%, and further agreed that any increase granted by the Board would not take effect prior to March 1, 2002.

PROCEDURAL HISTORY

On April 12, 2001, the matter was transmitted to the Office of Administrative Law (OAL) and assigned to Administrative Law Judge (ALJ) William Gural.

A pre-hearing conference was conducted by ALJ Gural on May 30, 2001.

On September 13, 2001, public hearings were held at 1:00 PM in Bridgewater Township, and at 7:30 PM in Westfield, each presided over by ALJ Gural. At the Bridgewater Township public hearing, Mr. Joel Shain, Esq. of Shain, Schaffer & Rafanello, was present and represented a coalition of municipalities and bodies politic, which consisted of the Townships of South Brunswick and West Windsor and the Monroe Township Municipal Utilities Authority (the Coalition). At the Westfield hearing, one individual entered an appearance on behalf of the Mayor and Council of the City of Linden. Subsequent to the public hearings, resolutions in opposition to the proposed rate increase were transmitted to the Board for inclusion into the record from the Borough of Roselle Park, the Borough of Kenilworth, the Township of Hillside, the Borough of Roselle and the Township of North Plainfield. The Coalition moved to intervene in this proceeding. Subsequently the Coalition filed a letter on October 22, 2001, withdrawing from the proceeding.

In addition to the Company, the Ratepayer Advocate (RPA) and Board Staff (Staff), there were four interveners who participated in this proceeding and were granted intervention status: Tosco Refining Company (Tosco), Cogen Technologies Linden Venture L.P. (Cogen), New Jersey American Water Company (NJAW), and Middlesex Water Company (Middlesex). Evidentiary hearings were held on October 23, 24, 26, 30 and November 2, 2001 at the OAL presided over by ALJ Gural. Prior to the final evidentiary hearing conducted on November 2, 2001, the Company, the RPA and Staff jointly offered into evidence a Memorandum of Understanding (MOU), which addressed and settled various issues in the case.¹ The following items were agreed to as part of the MOU:

1. The Company's capital structure and cost rates on debt and preferred stock were to be utilized in development of the overall rate of return, adjusted for the premium on the bond issuance.
2. Accumulated Depreciation was calculated using the actual depreciation reserve at 2/28/01 as the starting point to which the annualized depreciation expense will be added.
3. The book utility plant in service for the Manville Acquisition was to be \$3,000,482.
4. Materials and Supplies and Prepayments would be based on the 13-month average ending 9/30/01.

¹ The MOU was later incorporated into an overall settlement.

5. The level of Cash Working Capital was to be \$8,000,000.
6. Customer Deposits were to reflect the actual balance of customer deposits at 9/30/01.
7. Contributions in Aid of Construction were to be the actual balance at 9/30/01.
8. Customer Advances were to be the actual balance at 9/30/01.
9. Consolidated Tax Savings were to reflect the savings through calendar year 2000, adjusted to eliminate the impact of merger related expenses.
10. Un-amortized Investment Tax Credit was calculated at \$265,999.
11. Deferred Federal Income Tax was to reflect a balance at 9/30/01.
12. General Metered Service was to reflect the Company's as filed level of present rate revenues adjusted for Manville.
13. The Company's proposed present rate revenue adjustment regarding the sale to Cogen was to be withdrawn.
14. Private Fire Protection revenues were to be the Company's as filed revenues.
15. Public Fire Protection revenues were to be the Company's as filed revenues.
16. Other Operating Revenues were to be \$70,000.
17. The summary of projected water sales and production was to utilize the methodology as indicated by the Company and agreed to by the RPA, including an unaccounted for water percentage of 15%.
18. Production Power was to reflect a cost per million gallons for surface water treatment plants of \$89.30, and a cost for million gallons for wells and boosters of \$57.83.
19. Chemicals were to reflect an average cost per million gallons of total production of \$44.83.
20. Employee Benefits were to reflect the Company's updated expense of \$6,095,337.
21. Residual Disposal was to reflect the Company's as filed level.
22. Purchased Water was to reflect the Company's as filed level.
23. Tank Painting was to reflect an amount of \$28,833 with a three-year amortization.

24. Insurance was to reflect the Company's as filed level.
25. Rent was to reflect the Company's as filed level.
26. General Cost Increases were to reflect no charitable contributions, lobbying expenses and expired amortization.
27. Property Taxes were to reflect the Company's actual 2001 property taxes.
28. Federal Income Taxes were to be calculated to include the annual amortization of Investment Tax Credit and the interest synchronization method for the amount of interest charges.
29. Gain on the Sale of Land Bridgewater Township was to reflect the 50/50 sharing between the ratepayer and shareholder. The Gain on the Sale of Land Watchung has not been completed and will not be reflected in this case.
30. Interest on Customer Deposits was to reflect an amount of \$11,191.
31. Flow through taxes were to include BPU/RPA assessment, payroll, GRAFT and federal income taxes.

Subsequent to the public hearing and the evidentiary hearings, the Company, the RPA, Staff, Tosco and Cogen (collectively the Parties), engaged in settlement negotiations on October 3, 2001 at the Office of the Ratepayer Advocate's Offices, on October 17, 2001 at the Company's Offices, and on December 7, 12, and 18, 2001 at the Board's Offices. As a result of these discussions, the Parties reached a stipulated settlement of all issues (stipulation or settlement). The settlement incorporated the earlier MOU. Middlesex and NJAW did not execute the stipulation but filed letters stating that they take no position with respect to the issues that are addressed in the stipulation and that they do not oppose the stipulation.

On January 3, 2002, ALJ Gural issued his Initial Decision recommending adoption of the stipulation executed by the Parties, finding that the Parties had voluntarily agreed to the settlement and that the settlement fully disposes of all issues and was consistent with the law.

STIPULATION

As more fully set forth in the attached stipulation², the Parties agreed that:

1. The Company's total rate base for purposes of this proceeding is to be \$546,998,471 (paragraph 2, Schedule A).
2. The appropriate return on equity is to be 10.00% and that this return on equity should result in an appropriate overall rate of return of 7.84% (paragraph 5).
3. An overall rate of return of 7.84% would result in an additional revenue requirement of \$17,400,000 or 12.96%. Attachment A-1 represents a breakdown of the revenue requirement component yielding the revenue increase of \$17,400,000 (paragraph 2).
4. A revenue increase of \$17,400,000 (12.96%) over present revenues represented the level of revenue, that will ensure that the Company will continue to provide safe, adequate and proper water service to its customers (paragraph 10).
5. The Parties agree that rates shall not be effective for service rendered prior to March 1, 2002 (paragraph 3).
6. The Company agrees to withdraw from this rate case filing a proposed tariff entitled "Standby Water Service" applicable to any customer who has a New Alternative Source of Supply (paragraph 6).
7. The Company and Tosco agreed that Tosco may be able to develop alternative water supply options for its industrial processes after the effective date of this rate filing. The Company and Tosco have agreed to a schedule of discounted rates for five years following the effective date of rates in this case subject to a minimum annual payment by Tosco to the Company for each of those five years. The Company and Tosco will file a separate petition with the Board proposing an agreement between the Company and Tosco for review by the Parties (paragraph 6).
8. The Company agrees that it will not propose or impose a standby or similar charge on any existing customer who is an existing customer as of the effective date of rates implemented as a result of this stipulation, nor will it reintroduce the concept of a Standby Water Service Tariff, until the next general review of the Company's rates (paragraph 7).

² Cited paragraph references below are to the settlement document.

9. The Parties have agreed that the following rate design parameters will be followed in this case. The percentage increases for each class of service are shown below:

	Percentage Increase
General Metered Service	12.99%
Public Fire Protection	12.99%
Private Fire Protection	12.98%
Optional Industrial Wholesale	12.95%
Service to Other Systems	12.87%

10. The miscellaneous charges, which are the reconnection charges after disconnection due to non-payment, will increase from \$18.00 to \$21.25 during normal business hours and will increase from \$22.50 to \$26.50 after normal business hours (paragraph 8).
11. The bad check charge will increase from \$7.00 to \$8.00 to reflect the cost imposed by the Company's bank for processing bad checks (paragraph 8).
12. The tariff pages will reflect the settlement provisions of the stipulation (paragraph 9).
13. The Company proposed and the Parties agreed to implement Customer Service performance measures and performance targets and further agreed to link rate recovery of the difference between the cost of its new Customer Care System (CCS) and the cost of the service provided by the vendor that it previously used as set forth in Schedule D attached to the stipulation (paragraph 9).
14. The MOU is included as Schedule C to the settlement.

DISCUSSIONS AND FINDINGS

The stipulation provides for increases as stated in Paragraph 8 of the stipulation. Miscellaneous Service Revenue will increase by approximately 18%. The Bad Check charge will increase from \$7.00 to \$8.00 to reflect the cost imposed by the Company's bank for processing bad checks. As a result of the stipulation, an average residential customer with a 5/8" inch meter utilizing 20,944 gallons or 2,800 cubic feet of water per quarter will see an increase in rates from \$76.20 per quarter to \$86.06 per quarter or 12.94%. An average residential customer within the Company's Manville service area utilizing 21,000 gallons of water per quarter will see their rates increase from \$61.50 per quarter to \$72.56 per quarter or 17.98%. The percentage increase is somewhat higher than the average residential customer increase in order to bring Manville customer's residential rates up to E'town customer's resident rates. The Manville rate will be \$1.7143 per 100 cubic feet or 2.2918 per 1,000 gallons (exempt). The E'town rate will be \$2.1361 per 100 cubic feet or \$2.8557 per 1,000 gallons (exempt). The Manville customers will continue to be charged a rate lower than E'Town customers.

For Public Fire Protection service, the rates for hydrants will increase from \$50.30 per quarter to \$56.79 per quarter or 12.90%. The rate for an inch-foot of main will increase from \$.0507 to \$.0573 or 13.02%. For Private Fire protection service, the quarterly charge will increase by 12.96% across the board. A 2" sprinkler with hose connection will increase from \$138.42 per quarter to \$156.36 per quarter or 12.96%. A 2" sprinkler connection without a hose connection will increase from \$98.80 per quarter to \$111.60 per quarter or 12.96%.

Sales for Resale customers (exempt rates) will see their rate increase from \$1,555.92 per million gallons to \$1,756.17 per million gallons or 12.87%.

The current Optional Industrial Wholesale customers (exempt rates) will see their rate increase from \$2.3222 per thousand gallons to \$2.622.9 per thousand gallons or 12.95%.

The Board, having reviewed ALJ Gural's Initial Decision and the stipulation, FINDS that the Parties have voluntarily agreed to the stipulation and that the stipulation fully disposes of all issues in this proceeding and is consistent with the law. The Board FINDS the stipulation to be reasonable and in the public interest. The Board HEREBY ADOPTS the Initial Decision and the stipulation attached hereto as its own incorporating by reference the terms and conditions as if fully set forth at length herein, subject to the following:

- a) The Company's total rate base for purposes of this proceeding shall be \$546,998,471.
- b) The appropriate return on common equity shall be 10.00%, which results in an overall rate of return of 7.84%.
- c) The total revenue increase shall be \$17,400,000 over present revenues.
- d) The rate increase of \$17,400,000, representing an overall 12.96% increase over present revenues of \$134,213,263, shall not be implemented prior to March 1, 2002.
- e) The increased revenues will ensure that the Company will continue to provide safe, adequate and proper service to its customers.
- f) The Company and Tosco shall file with the Board a separate petition proposing an agreement between the Company and Tosco with respect to a discounted rate over a five year period following the effective date of this Order, for review by all Parties.
- g) The Company shall implement the Customer Service performance measures and performance targets and agree to link rate recovery of the difference between the cost of its new Customer Care Service and the cost of the service provided by the vendor that it previously used as set forth in Schedule D attached to the stipulation.

The Board APPROVES the rate design for the increase as outlined in Paragraph 8 of the stipulation above and the bad check charge shall be set at \$8.00 to reflect the cost imposed by the Company's bank for processing bad checks, and a miscellaneous service revenues increase of approximately 18%. Furthermore, the Board ADOPTS the tariff pages attached to the settlement implementing the rate increase in their entirety.

The effective date of this Order is March 1, 2002.

DATED: 01/23/02

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

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ACTING PRESIDENT

(SIGNED)

JEANNE M. FOX
PRESIDENT DESIGNEE

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(SIGNED)

HENRY M. OGDEN
ACTING BOARD SECRETARY

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